

presented in the preamble to the proposed rule and are not repeated here.

The intent of the August 1, 2002, interim final rule was to provide vessels possessing limited access Category C or D monkfish permits with the opportunity to use their full annual allocation of 40 monkfish DAS, regardless of the number of NE multispecies DAS allocated under the Settlement Agreement. However, as currently written, the interim final rule specifies that Category C or D monkfish vessels that have been allocated fewer than 40 NE multispecies DAS may fish, as monkfish-only DAS (i.e., monkfish DAS that do not have to be fished concurrently with a NE multispecies DAS), those monkfish DAS equal to the difference between their NE multispecies DAS allocation and their monkfish DAS allocation for the fishing year May 1 through April 30. This does not account for vessels that used NE multispecies DAS prior to August 1, 2002, and, as a result, had fewer unused NE multispecies than unused monkfish DAS as of August 1, 2002. Therefore, NMFS, through this final rule, enables limited access Category C or D monkfish vessels to fish all of their allocated monkfish DAS that were unused as of August 1, 2002, regardless of how many NE multispecies DAS they had remaining as of August 1, 2002. This regulatory amendment modifies the monkfish DAS regulations found at § 648.92(b)(2), and applies to only the 2002 fishing year, which ends April 30, 2003. For the 2002 fishing year, this regulatory amendment authorizes a vessel to fish its monkfish-only DAS equal to the difference between the number of its unused monkfish DAS and its unused NE multispecies DAS as of August 1, 2002, in addition to the unused monkfish DAS associated with the vessel's unused NE multispecies DAS as of August 1, 2002. For the 2003 fishing year, vessels allocated fewer NE multispecies DAS than monkfish DAS would fish the difference in DAS as monkfish-only DAS, as stipulated in the August 1, 2002, interim final rule.

As under the current August 1, 2002, interim final rule, vessels fishing under a monkfish-only DAS will be required to fish under the same provisions as limited access Category A and B monkfish vessels. Limited access monkfish Category A and B vessels are required to fish their monkfish DAS in an existing monkfish exempted fishery, a fishery that has been demonstrated to result in less than a 5-percent bycatch of NE multispecies. The existing monkfish exemption areas are specified under § 648.81. A map of these exemption areas is also available from

the Northeast Regional Office of NMFS (see **FOR FURTHER INFORMATION CONTACT**).

This regulatory amendment also revises ambiguous regulatory language pertaining to yellowtail flounder possession restrictions. The intent of the August 1, 2002, interim final rule was to allow vessels possessing a SNE and MA Yellowtail Flounder Possession/Landing LOA to fish any part of a trip in the GOM or GB RMAs, provided that they abide by the more restrictive yellowtail flounder possession limits of the SNE and MA RMAs north of 40°00' N. lat. However, this is not clearly stated in existing regulations pertaining to yellowtail flounder possession restrictions found at § 648.86(h)(2)(ii). Therefore, this action revises the regulatory language to clarify that vessels possessing a SNE and MA Yellowtail Flounder Possession/Landing LOA may fish in the GOM or GB RMAs under the more restrictive yellowtail possession limits of the SNE and MA RMAs.

NMFS will announce any continuation of the August 1, 2002, interim final rule by publishing notification in the **Federal Register**. Because this final rule amends that interim final rule, it will remain in effect for the duration of the August 1, 2002, interim final rule, including any continuation.

Comments and Responses

No public comments were received on the proposed rule.

Classification

The Administrator, Northeast Region, NMFS, determined that this regulatory amendment is necessary for the conservation and management of the NE multispecies and monkfish fisheries and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule makes minor revisions to the regulations contained in the August 1, 2002, interim final rule in order to reflect NMFS' intent in implementing the Settlement Agreement. The interim final rule restricts a population of limited access Category C and D monkfish vessels' from using their full allocation of 40 monkfish DAS. This final rule relieves that restriction by permitting these vessels to utilize 40 monkfish DAS, regardless of the amount of NE multispecies DAS available as of August 1, 2002. It is imperative that this rule be effective immediately so that affected individuals can maximize the use of their monkfish DAS prior to the end of the fishing season on April 30, 2003. Therefore, because this rule relieves a restriction, the Assistant Administrator

for Fisheries, NOAA, finds good cause under the Administrative Procedure Act pursuant to 5 U.S.C. 553 (d)(1) to waive the 30-day delay in effectiveness date for this final rule.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: January 22, 2003

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.86, paragraph (h)(2) (ii) is revised to read as follows:

§ 648.86 Multispecies possession restrictions.

* * * * *

(h) * * *

(2) * * *

(ii) The vessel does not fish south of 40°00' N. lat. for a minimum of 30 consecutive days (when fishing under the NE multispecies DAS program, or under the monkfish DAS program if the vessel is fishing under the limited access monkfish Category C or D provisions). Vessels subject to these restrictions may fish any portion of a trip in the GOM and GB Regulated Mesh Areas, provided the vessel complies with the possession restrictions specified under this paragraph (h). Vessels subject to these restrictions may also transit the SNE and MA Regulated Mesh Areas south of 40°00' N. lat., provided the gear is stowed in accordance with one of the provisions of § 648.23(b).

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3. In § 648.92, paragraph (b)(2) is revised to read as follows: